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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/644,819  | 08/21/2003  | Andrew F. Kozak III  | MR2287-13           | 6186             |
| 4586  | 7590        | 09/30/2004           | EXAMINER            |                  |
| ROSENBERG, KLEIN & LEE<br>3458 ELLICOTT CENTER DRIVE-SUITE 101<br>ELLICOTT CITY, MD 21043 |             |                      | PRINCE, FRED G      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 1724                |                  |

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

SC

|                              |                         |                  |
|------------------------------|-------------------------|------------------|
| <b>Office Action Summary</b> | Application No.         | Applicant(s)     |
|                              | 10/644,819              | KOZAK, ANDREW F. |
|                              | Examiner<br>Fred Prince | Art Unit<br>1724 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 December 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-12 is/are allowed.
- 6) Claim(s) 13-17, 19 and 20 is/are rejected.
- 7) Claim(s) 18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 1203.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Specification***

1. The disclosure is objected to because of the following informalities: On page 11, it appears that "conduit 120" should be changed to --conduit 121-- as reference number "120" has been used to designate the light-density liquid region.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Anderson (EP 0119014).

Anderson, directed a method for separating immiscible fluids, teaches providing a mixture of oil, creosote, and water (page 2, lines 5-18) to a hollow vessel, wherein oil has a density less than that of creosote, and water has a density greater than that of oil, wherein the three liquids form three discrete layers with an interface (page 9) via gravity

assist, which inherently allows the separation oil to rise out of the water. Anderson does not explicitly disclose that the water is acting as a separation medium. It is the examiner's position that the water is inherently separating the creosote and oil, since creosote inherently settles through the water and oil inherently rises out of the water. Alternatively, it is submitted that the water is capable of separating creosote and oil and therefore meets the claimed limitation.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson ('014).

Anderson is described above. Anderson does not disclose using a check valve or charging the fluids via a pump. It is submitted that it is conventional in the art to use check valves to, for example, prevent the backflow of fluid and to use a pump to deliver fluids to a vessel. Accordingly, it is submitted that it would have been obvious for the skilled artisan to have modified the invention of Anderson such that it includes using check valves to, for example, prevent the backflow of fluid and to use a pump to deliver fluids to a vessel, as known in the art.

#### ***Allowable Subject Matter***

6. Claims 1-12 are allowed.
7. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

In the examiner's opinion, the prior art fails to teach or fairly suggest a system or method having the recited steps or operational elements with the recited positioning. The instant invention provides the benefit of preventing currents and turbulence in the separation medium from hindering the separation process.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Fred Prince*  
Fred Prince  
Primary Examiner  
Art Unit 1724

fgp  
9/28/04